The Issues: The Dred Scott Decision: The Parties.

SPEECH

OF

HON. ISRAEL WASHBURN, JUN.,

OF MAINE.

Delivered in the House of Representatives, May 19, 1860.

Mr. CHAIRMAN:

"Queen Elizabeth equipped two vessels for her own sole profit, in which two vessels, escorted by the fleet under the command of Hawkins, were the first unhappy blacks inveigled from their shores by Englishmen, and doomed to end their lives in servitude. Elizabeth was avaricious and cruel; but a small segment of her heart had a brief sunshine on it, darting obliquely. We are under a King [George III] notoriously more avaricious; one who passes without a shudder the gibbets his sign-manual has garnished; one who sees on the fields of the most disastrous battles, battles in which he ordered his people to fight his people, nothing else to be regretted than the loss of horses and saddles, of haversacks and jackets. If this insensate and insatiable man even hears that Queen Elizabeth was a slave-dealer, he will assert the immeasurable rights of the Crown, and swamp your motion."

I have read from an "Imaginary Conversation" between Romilly and Wilberforce, by Walter Savage Landor, the statement of an actual fact. The words are understood to have been spoken by Romilly.

In the original draft of the Declaration of Independence, Thomas Jefferson wrote:

"He [George III] has waged cruel war against human nature itself, violating its most sacred rights of life and liberty, in the persons of a distant people, who never offended him, captivating and carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel Powers, is the warfare of the Christian King of Great Britain. Determined to keep a market where men should be bought and sold, he has at length prostituted his negative for suppressing any legislative attempt to prohibit and restrain this execrable commerce."

Thus we learn that under the authority and by the aid of the sovereigns of Great Britain, from Elizabeth to the third George, black men were brought from Africa to the British American colonies, and reduced to the condition of slaves. And thus, at the close of the Revolutionary war, chattel slavery existed in all the States but one that were to form the new Confederacy. It was an undoubted evil; indeed, its removal was one of the great objects for which the war was commenced and prosecuted. Under the influence of the truths which so filled and informed the minds of men at that time, and by the authority of the new sovereignties, it was scarcely doubted in any quarter that the system, so inexpedient and full of evil, so unprofitable and wrong, would die out or be exterminated. It could not, men thought, be otherwise. In consequence of the unsettled and impoverished condition of the country, it would no doubt take some time to accomplish an end so desirable and so certain; but the will and the determination should not be wanting; and so our ancestors, when the war was over, set themselves at work earnestly and in good faith to effect the amelioration and ultimate extinction of this evil. By an ordinance which Mr. Webster said should make its author immortal, they excluded slavery from all the territory of the Government lying north and west of the Ohio river. They framed a Constitution "to establish justice," and "secure the blessings of liberty" for themselves and their posterity; and among those by whose votes the Constitution was adopted, and for whom, as well as others, it must have been intended, were colored men of African descent, residing in several of the States South and North. In that Constitution they sedulously excluded the idea that men were, or could rightfully be made, property; they would not dishonor that consummate fruit of their toils and sacrifices by the use of the words "slave" and "servitude;" they treated human beings as persons—men, and not as things; they provided for the abolition of the slave trade at the earliest practicable moment. While they recognised no distinction of color or race, and, in the numeration of persons for purposes of Federal representation, counted alike members of the European and African races, they dis-

couraged the system of servile labor, by imposing upon the States which continued it, terms in respect to such representation, which it was supposed would tend to bring it into disfavor, and so hasten its abolition. Sir, the men of that day did the best they could; they were sincere, and they were earnest. They gave to liberty all the securities and threw around slavery all the limitations and disabilities in their power. They worked hopefully for the hour when emancipation was to begin in all the States; they waited in faith and implicit trust, never seeming to doubt that the time for their deliverance was near at hand. But the weakness of the country, just emerged from a long and exhausting war, the condition of its relations with foreign Powers, the spoliations of its commerce, the embarrassments in its trade, the necessity of extending protection to its frontier settlements, the internal strifes contingent upon the formation of parties under the new Government, furnished excuses to the States in which slaveholding was most largely practiced, for postponing the work, the wisdom and duty of which they still affirmed. Their views as to the impolicy and wrongfulness of slavery they protested were unchanged; but the longer they felt compelled by circumstances to delay the work of abolition, the more formidable and difficult did it become. Louisiana was purchased in 1803, and Florida in 1819, by which acquisitions the slaveholding territory of the United States was largely expanded. Mr. Whitney invented the cotton-gin, and the production of cotton, largely increased in consequence thereof, gave employment to and enhanced the value of slave labor. Thus events and circumstances unpropitious to the performance of what was still acknowledged to be a stern duty, succeeded one another, year after year, until, at length, the system was so extended, and its proportions were so vast, that those most interested in its overthrow were the least ready to give their minds to a serious and practical consideration of the question, when and how this was to be accomplished. As the labor and difficulty of the undertaking loomed up before them, the expediency and duty of engaging in it became less clear and dominant.

It was not before a very general indifference appeared among the slaveholders in regard to the continuance of their system—indeed, it was not until they began to furnish evidence of a fixed design to carry it where it had never been before, and to plant it upon the free territory of the United States—that Northern people perceived how much they were interested in the question of slavery, and that they could not safely or with honor permit the purposes of the slaveholders to go unchecked; that they could not be unconcerned spectators while their interests were assailed, their rights invaded, and the welfare and good name of the country imperilled. The slavery controversy between the North and South arose only when the latter abandoned the policy upon which both had been agreed—not until the claims of the South were seen to be inconsistent with the rights of the North. But even then those claims were not asserted upon the ground of the absolute rightfulness of slavery, but upon considerations of convenience, temporary expediency, and good neighborhood. Slavery, it was conceded, was not right in the abstract; it was not to exist always; it was an evil undoubtedly, and in the good Providence of Heaven some way would be found by-and-by for its removal. Meanwhile, so it was urged, it must be tolerated, it must not be warred upon, and Northern people were informed that, however they might dislike it, and very properly dislike it, they must be careful not to oppose it by any means not clearly legitimate and constitutional. We do not affirm, said the South, that slavery is a good thing in itself, but we do insist that, under the Constitution, Congress has no power to exclude it from the common domain of the country, and we demand that the people of the free States shall employ no unlawful means to prevent its expansion; whatever you of the North may properly do, under the Constitution, we shall not object to; if slavery be an evil, it does not lie with us, or with anybody, to complain if you attempt to restrict and cripple it; this is your right and duty; but you must not attempt its inhibition or injury by any methods not warranted by the Constitution.

The political party which for many years had held possession of the Government, and controlled the legislation of the country, was, for this reason, and with a large foresight, regarded by the slaveholders as the organization through which they could obtain better protection to their peculiar claims and demands than through any other; and so we find that they attached themselves so generally to the Democratic party, that, in the course of a few years, the seat of its great and ever-reliable strength was established in the slave States; and these, not unnaturally, were permitted to make its issues, shape its policy, and name its candidates for the principal offices in the Republic. Thus, when the slaveholders, some twelve or fifteen years ago, and for the first time since the organization of Government, *formally* proclaimed the doctrine, that Congress had no power to prohibit slavery in the Territories, its Northern chieftain [General Cass] hurried to accept it, adding, for the benefit of party friends in his own section, that this power resided only with the people of the Territories, and that they had an undoubted right to form and regulate their domestic institutions, including slavery, in their own way. As it was considered by the slaveholders that the doctrine, with this qualification, was all that would be necessary for the extension of their system into the Territories, they were contented to receive it without objection, although they did not affirmatively adopt it. It was generally recognised, however, as the true Democratic

doctrine, and was acted upon, in 1850, in the organization of the Territories of New Mexico and Utah; in 1852, it was affirmed in the national Democratic Convention; and in 1854, when the Territories of Kansas and Nebraska were organized, it was so distinctly a dogma of the Democratic party, that it did not hesitate to abrogate a law for the prohibition of slavery, which had stood for more than thirty years upon the statute book, and which, from the circumstances of its enactment, had been universally regarded as hedged around with all the sacredness of a compact. But this time-honored restriction was made to give way before the "great principle of 'popular sovereignty.'" Nevertheless, the "great principle" failed to accomplish the end whereunto it was directed. Kansas was made a free State, the invention of "popular sovereignty" was discarded as worthless, and its patentees, the present Secretary of State, [General Cass,] and the Senator from Illinois, [Mr. DOUGLAS]—that their title is a joint one, is confirmed by the fortune that has attended them—were left to console themselves with the reflection, that the rascally machine had wrought even greater harm to those for whom they contrived it than it had to themselves!

Finding, at last, after many experiments and trials, that the practice of slavery was not to be extended and promoted by any measures or through any policy founded upon, or consistent with, the admission that *it is an evil*—discovering the futility of all efforts to advance and strengthen it from this starting point—the slaveholders, abandoning the policy which they had hitherto pursued, denying and scouting the opinions of their predecessors—of all the men in the South, down to a period comparatively recent—now declare that slavery is *not an evil*, is not wrong, but is wise, just, expedient, humane, divine; that it is established in natural law, and has the sanction and benedictions of Almighty God. And, sir, such is their influence and authority in the Democratic party, that it has, at their demand, accepted these atrocious dogmas as eternal verities, and made them the distinctive and all-essential part of its platform, as will be seen hereafter.

Thus Mr. Chairman, I have endeavored to show briefly how it has happened, that within a little more than seventy years after the formation of the Constitution, in which was embodied the principles of the Revolution, we find ourselves brought to a reconsideration of those principles, and to an inquiry in regard to the foundations upon which they rest.

In matters of Government and politics, it is fortunate perhaps that, at periods not greatly removed from each other, the attention of men is arrested by the enunciation of strange and monstrous doctrines, and their quiet disturbed by the assertion of claims and purposes of the most dangerous and alarming character, for in this way they are brought to a consideration of the reason and logic of things, of elementary truths, of principles. Thus they are led to explore the sources of power, to discover and define its conditions and boundaries, and renew its landmarks. Gathering strength and inspiration from the great soul of Truth, to which they bring themselves near, their voice becomes the voice of God. They arouse and inform the public mind, they quicken the public heart; the banner of controversy is unrolled, and the end is, that the wrong is overthrown and the right vindicated, and people feel that henceforward,

> "Noble thought shall be freer under the sun,
> And the heart of a people beat with one desire."

Mr. Chairman, there can be little doubt that the Democratic party, as it is called, acting under the guidance of the oligarchy of Southern slaveholders, has succeeded in thoroughly alarming the public mind by the doctrines it proclaims and the designs its avows.

Thus, sir, I am brought to an examination of the issues before the people in the great political canvass of this year—the real and true issues upon which the parties will go to the country.

The Democratic party, controlled, as it is in all its movements and aspirations, by an inexorable oligarchy which acts as one man in defence of a common interest, has become, as we have seen, the exponent of ideas and opinions in direct conflict with those of the revolutionary fathers, and of the apostles and champions of liberty and human rights in all lands and in every age.

The issues which this party presents may be concisely and truly stated in these words: *The fathers were wrong; republicanism is a sham; democracy is a falsehood.*

Sir, there is not a single political truth affecting the rights of man, asserted by the great men of the revolutionary epoch, which this party does not deny, not an opinion in regard to fundamental principles which it does not scoff at. The fathers held chattel slavery, the merchandising of men, to be wrong; the Democratic party says it is right. The former regarded it as an evil; the latter vaunt it as a blessing. The fathers hoped and believed it would be of but temporary duration; the Democratic party (for without the slaveholders this party is nothing, and less than nothing, and vanity) declare that it ought to be and shall be perpetual.

The brave men of old, who pledged life, fortune, and honor, to their country and to truth, declared that "ALL MEN ARE CREATED EQUAL;" they thought, in the simplicity of their souls, that this truth was so plain as to be "self-evident;" but the Democratic party pronounces the assertion a "*self-evident lie.*" The men of 1776 declared that among the NATURAL AND "INALIENABLE RIGHTS OF ALL MEN WERE LIFE, LIBERTY, AND THE PURSUIT OF HAPPINESS;" the Democratic party sneers at this sublime truth, and calls it a "glittering general-

ity." Our republican forefathers maintained that "TO SECURE THESE RIGHTS, GOVERNMENTS WERE INSTITUTED AMONG MEN, DERIVING THEIR JUST POWERS FROM THE CONSENT OF THE GOVERNED;" the Democratic party insists that Governments are not instituted—that this Government, at any rate, was not instituted—to secure life, liberty, and happiness, to *all* men, but rather to secure and perpetuate a system of bondage the most galling and intolerable that exists upon the face of the earth; and that so far from Government deriving its just powers from the consent of the governed, there are millions of men in this country who have no right, natural or political, to give or withhold their consent upon any question affecting the Government. The framers of the Constitution have informed us that that instrument was ordained to "establish justice," and secure to the people the "blessings of liberty;" the Democratic party says that, so far from this being true, it was adopted for the purpose of recognising and affirming the idea—which Lord Brougham has denounced as a "guilty fantasy"—that man could hold property in man, and to enable the slaveholder to carry his manchattel into any of the Territories—and, I may add, States—of the Republic, and there, under its ægis, practice the greatest injustice that man can inflict upon his fellow man.

The men who formed our institutions believed that the legislative power of the Government was adequate to the exclusion of slavery from the territory belonging to the Government, and exercised that power, as a matter of conscience and duty, by reviving the ordinance of 1787, within a year after the adoption of the Constitution; but the Democratic party denies the power and duty alike, repeals the restrictions and breaks down the barriers interposed by the wisdom and humanity of the fathers, that slavery, the "chartered libertine," may go free as the winds.

The fathers established the Union for the sake of liberty; the managers of the Democratic party say they will destroy it unless they can extend slavery.

Mr. Chairman, Mr. Jefferson and his compeers taught, and the old Republican party held, that the people were the only depositories of political power, and that with them was the ultimate decision of all political questions; but the Democratic party rejects this old republican doctrine, and maintains that the Constitution has created a tribunal, and placed it above and beyond the people, to which it has delegated the authority to decide, finally and conclusively, all questions of political right and power. This tribunal is the Supreme Court of the United States, and, as at present constituted, is composed of nine judges, of whom a majority are citizens of slave States, and are slaveholders. Here are our masters; here is supreme, despotic, irresponsible power. If there be a tribunal anywhere which can decide all questions affecting the powers and functions of the Government and the rights of the people, without appeal—which may declare that the Constitution was not made for Africans, or Frenchmen, or Germans, or Irishmen, but for slaveholders only, and the people must submit—that under the pretext of protecting all the institutions and systems guarantied or recognised (according to their own decisions) by the Constitution, men who shall dare utter or publish views and sentiments adverse to such systems, may, by law of Congress, be brought to trial, conviction, and punishment, as criminals, even as traitors; that the system of slavery, with all its mischiefs and abominations, is national and universal, and beyond the power of the States or of the people; if, sir, I say, there be a power anywhere so tremendous as this, we are no longer living under a republican Government, and our land has ceased to be a land of liberty. But this awful and irresponsible power in a body of nine men is what the Democratic party is now bending all its energies to maintain.

Sir, Mr. Jefferson recognised no such authority in the Supreme Court. In a letter to Judge Roane, in 1819, he said:

"In denying the right they [the judges of the Supreme Court] usurp of exclusively explaining the Constitution, I go further than you do, if I understand rightly your quotation from the Federalist, of an opinion that 'the Judiciary is the last resort in relation *to the other departments* of the Government, but not in relation to the rights of the parties to the compact under which the Judiciary is derived.' If this opinion be sound, then, indeed, is our Constitution a complete *felo de se*. For, intending to establish three departments, co-ordinate and independent, that they might check and balance one another, it has given, according to this opinion, to one of them alone the right to prescribe rules for the government of the others; and to that one, too, which is unelected by and independent of the nation."

* * * "The Constitution, on this hypothesis, is a mere thing of wax, in the hands of the Judiciary, which they may twist and shape into any form they please. It should be remembered as *an axiom of eternal truth in politics, that whatever power in any Government is independent, is absolute also;* in theory only at first, while the spirit of the people is up, but in practice as fast as that relaxes. Independence can be trusted nowhere but with the people in mass. They are inherently independent of all but moral law."

In a letter written in 1820, to Mr. Jarvis, he used the following language:

"The Constitution has erected no such single tribunal, knowing that, to whatever hands confided, with the corruptions of time and party, its members would become despots. It has more wisely made all the departments co-equal and co-sovereign within themselves."

To Judge Johnson he wrote, in 1823, these striking words:

"I cannot lay down my pen without recurring to one of the subjects of my former letter, for, in truth, there is no danger I apprehend so much as the consolidation of our Government by the noiseless, and therefore unalarming, instrumentality of the Supreme Court. This is the form in *which Federalism now arrays itself; and consolidation is the present principle of distinction between Republicans and pseudo-Republicans, but real Federalists.*"

And General Jackson entertained opinions in reference to the powers of the Supreme Court as little in harmony with the views and doctrines of the modern Democracy as are those I have quoted from Mr. Jefferson. In his message vetoing the bill for rechartering the Bank of the United States, he said:

"The opinion of the judges has no more authority over Congress than the opinion of Congress over the judges; and, on that point, the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve."

It is evident that the sage of Monticello, and the hero of the Hermitage, could they return to earth, would find no seats reserved for them at any Democratic banquet.

The Republicans of to-day stand with Mr. Jefferson and the old Republican party on this question, and not with the oligarchy for whose uses the so-called Democratic organization is kept up.

The Democratic party having made what they are pleased to call the Dred Scott decision the main plank of their platform, I propose to show what that decision is, what it implies, and what is its basis or foundation.

The facts in this case were as follows. I read from the report:

"In the year 1834, the plaintiff, Dred Scott, was a negro slave belonging to Dr. Emerson, who was a surgeon in the army of the United States. In that year, 1834, said Dr. Emerson took the plaintiff from the State of Missouri to the military post at Rock Island, in the State of Illinois, and held him there as a slave, until the month of April or May, 1836. At the time last mentioned, said Dr. Emerson removed the plaintiff from said military post at Rock Island to the military post at Fort Snelling, situate on the west bank of the Mississippi river, in the Territory known as Upper Louisiana, acquired by the United States of France, and situate north of the latitude of 36° 30′ north, and north of the State of Missouri; said Dr. Emerson held the plaintiff in slavery at Fort Snelling, from the said last-mentioned date until the year 1838. * * *

"In the year 1838, said Dr. Emerson removed the plaintiff from said Fort Snelling to the State of Missouri, where he has ever since resided."

In the year 1838, Dr. Emerson sold the plaintiff to the defendant, Sandford.

The defendant pleaded in abatement to the jurisdiction of the court, that the plaintiff was not a citizen of the State of Missouri, because he was a negro of African descent, and his ancestors were of pure African blood, and were brought into this country and sold as negro slaves.

The court sustained the plea in abatement, and decided that, conceding the plaintiff to be a freeman, he was not, under the Constitution, a citizen of the State of Missouri or of the United States, for the reason that he was a negro of African descent, and that his ancestors were of pure African blood, and brought to this country and sold as slaves. This adjudication of course terminated the case, and Dred Scott was turned out of court.

But after the court had thus made an end of the suit, and declared that there were no parties before them, the slaveholding majority proceeded to inquire whether in point of fact the plaintiff was a free man; and this brought them to a consideration of the question of the validity and constitutionality of the Missouri compromise restriction, and their opinion, which for convenience sake I shall hereafter speak of as a decision, although it was not a decision in any proper or legal sense, was, that this restriction was unconstitutional and void, and that Dred Scott remained a slave. Their opinion was clear and explicit, that neither Congress nor the people of a Territory had authority under the Constitution to legislate for the exclusion of slavery from any of the Territories of the United States. By the Constitution itself, they argued, slaves were recognised and known as property; "the right of property in slaves," they said, was "distinctly and expressly affirmed" in that instrument, and the only authority conferred upon Congress was "*the power* COUPLED WITH THE DUTY *of guarding and protecting the owner in his rights.*"

These judges readily admitted that, but for the constitutional sanction of slavery, it would be fully competent for Congress to legislate for its regulation or prohibition in the Territories. They stated that the court had decided in a previous case that the power of Congress to *govern* the Territories was "unquestionable," and added, "in this we entirely concur, and nothing will be found in this opinion to the contrary;" thus destroying, root and branch, the whole doctrine of popular or squatter sovereignty. But, inasmuch as the Constitution has taken hold of slaves as property, and thrown its protection and guaranties around that species of property, it results, they maintained, that Congress, which is itself the creature of the Constitution, cannot have power to destroy or impair that which the Constitution affirms and protects. Now, if it be true that slaves are property under the Constitution of the United States, which is the supreme law; that this instrument, which governs and controls, in respect to all questions upon which it speaks, within all the States, as well as Territories, attaches to a particular class of human beings the character and imprints upon them the stamp of property, and confers upon Congress "the power coupled with the duty of protecting this property," for the reason that it is property by a constitutional recognition, it will be difficult to resist the conclusion to which these judges have arrived; nay, it will be impossible to resist it, or that other conclusion to which this decision reaches, viz: THAT THIS KIND OF PROPERTY MAY BE TAKEN, HELD, USED, BOUGHT AND SOLD, IN EACH AND ALL OF THE STATES OF THE UNION. This result, inevitable from the Dred Scott decision, is what will be judicially asserted whenever the time shall come, and come it will if the Democratic party remains in power but a few years more, for raising the question—whenever, in the opinion of those who control the court, the time is ripe for such a decision—or, in other words, whenever the oligarchy shall believe that the Northern people will submit to it, and consent that every State in the Union shall be a slave State. The real and overshadowing question which by this decision is presented to the country is not

whether freedom is national, but is whether it has even a section where it may dwell; it is whether slavery is not national and universal.

It is clear that whatsoever is property by the highest law of the land is entitled to the rights, immunities, and protections of property, wherever that highest law prevails. The Constitution of the United States is in force in every State of the Union, and all laws of Congress, all laws of States, and all State Constitutions, which are in conflict with its provisions, are inoperative and void. If a slave is property by or under the authority of the Federal Constitution, this relation or character cannot be destroyed, or injuriously affected, by the Constitution of a State; for wherever and in whatever respect these Constitutions are inconsistent with each other, the latter must yield to the former. If the Constitution of the United States declares that a man held as a slave is property, he may be so held, treated, and regarded, in all places where that fundamental and supreme law is in operation; and a provision in the Constitution of the State of Maine, that there shall be no such thing as property in men within that State, cannot stand a moment against the Constitution of the United States, which says that there may be; and the theory of the practical exclusion of slavery by unfriendly legislation is fallacious and wholly inadmissible—it is as unsound as it is dishonest. If the chattelship of a slave is recognised and secured by the Constitution of the United States, it is something more than a merely nominal recognition, for a security which is merely nominal is no security at all. The constitutional guaranty or protection is of no account, if the States, or Territories, or Congress, may at their pleasure render that which is the subject of protection valueless, or not worth possessing. But if it should be conceded, as I will not deny it may be, that the State Legislatures and the legislative authorities for the Territories, whether Federal or local, may pass laws regulating the possession, use, sale, and enjoyment of property in general—if they may, by taxation or otherwise, render the holding of any particular kind of property unprofitable and burdensome, it does not follow that they have such power over slave property, and they have not if the Dred Scott decision be good law, and for this obvious reason—that of all things on earth, of all articles of all names, and descriptions of chattels, goods, wares, and possessions, (with the exception of slaves,) not one is made property by the Federal Constitution, not one is recognised in name or by implication as property. The Constitution recognises undoubtedly the idea of property, but the specific articles or things which shall be held and regarded as such, it does not name or indicate, with the single exception (if the doctrine of the judges of the Supreme Court and the Democratic party be sound) of negro slaves. It does not make horses property, or recognise them as property, and so it is entirely competent for any State or Territory, by its law-making power, to declare that there shall be within its jurisdiction no such thing as property in a horse; whatever is property by statute, may be deprived of that character by statute; and whatever by the common law, or by the understanding and consent of mankind, is regarded as property, may cease to be such in any country, if the law-making power thereof shall so determine. Of the truth of this proposition there can be no doubt; it is acted upon every year in the States and in all sovereignties. The States are sovereign, except in so far as their power is limited by the Constitution of the United States. It is not claimed that the power of the States to declare what shall or shall not be treated as property within their own limits has been taken from them, always excepting the one case of slaves. One State has provided by legislation that there shall be no property in cart-wheels of less than a certain width; another, that there shall be no such thing as property within its jurisdiction in game cocks; another, that an inferior and vicious species of cattle, which were being brought into it from a neighboring country shall not be introduced, held, or kept as property, within its limits; another, that there shall be no protection to, and no property in, domestic liquors, and when the question of the power of the State to pass such a law was raised and presented to the Supreme Court of the United States. that tribunal decided in favor of the power. Thus, in all cases and in reference to all kinds of property, except slave property, the States and Territories have unlimited power; and if they may deny the fact of property in any particular article or thing, they may of course regulate its use and enjoyment.

The truth is, this question of property belongs exclusively to the local sovereignties, and the Constitution of the United States does not in any manner recognise slaves as property. In this country, where the Federal Constitution is silent upon the subject of what is or is not property, the only limitation upon State authority is what possibly may result from the operation of a constitutional law of Congress; as, in the case of a revenue law, the effect may be to recognise property in any article of merchandise imported into the country upon which imposts are levied and paid, which article, thus recognised as property by a law paramount to any State authority, must be respected and treated as such within the States; and if this be true, it illustrates the position, that whatever is property under a recognition superior to State authority enjoys a special protection. If imported liquors are entitled to such protection by operation of a constitutional law of Congress, *a fortiori* is slave property, by virtue of the Constitution itself.

The power of the Territories over property is derived from their organic acts, and is generally, if not always, (with the exception of

slavery prohibitions,) unrestricted by such acts, so that the authority of Territorial Legislatures in respect to property is similar to that of State Legislatures; and the celebrated axiom of Mr. Clay, that "that is property which the law makes property," is true in the States and Territories alike; that is, true in respect to all things which are the rightful subjects of property—which are susceptible of being made property by any human law. Hence it comes that each State and Territory decides for itself what shall be known and respected as property within its jurisdiction. Whatever the law of Massachusetts makes property is property in that State, and whatever the law of Nebraska makes property is property in Nebraska; and nothing is or can be property in either, in violation of the local law, and nothing can be property in any State or Territory because it is property anywhere or everywhere else. The law of Maine must govern in that State, and not the law of North Carolina; the law of Nebraska must govern in Nebraska, and not the law of Alabama. There is no hardship or inequality in all this; the same law applies to all, residents and non-residents. The citizen of New York who removes to Nebraska with his property, does not hold it in Nebraska because it was property in New York, but simply because he finds it to be property in Nebraska by her own law. His title there does not necessarily rest upon the fact that it is property by the general consent of the civilized world, for, notwithstanding that general recognition, it may lose its character of property in Nebraska by the force of her local legislation.

But the States and Territories can pass no unequal laws, and deprive one description of persons or citizens of rights enjoyed by others; they cannot enact that a horse may be property in the hands of one man, and not in those of another; they may impose no unequal taxes, or make unjust discriminations between residents and non-residents, natives and foreigners, citizens of one State and citizens of another State—in this sense, one cannot be deprived of his property without due process of law — but whenever, in the judgment of the law-making authority, the good and welfare of the people and the advancement of the State will be promoted by a general law, operating upon all alike, which shall remove from any article, before held as property, that character or relation, it may do so; otherwise, it is not sovereign.

From this examination of the Dred Scott decision, we perceive the startling character and far-reaching consequences of the new claims of the oligarchy. We find that this Constitution of our fathers, in which Madison would not allow the idea of slavery to be seen at all, and which was accepted as a great charter of human rights, under which it was hoped the people of the United States might be able to rid themselves of this acknowledged evil, carries slavery, of its own force, into every State as well as every Territory of the United States, and plants it there so deeply and firmly that no power remains adequate to its expulsion. The States may prohibit or discourage everything else; but slavery is of so much greater utility and necessity than any other property, that it has been clothed upon with sanctity by the Constitution itself, and is inviolable. The expedient of unfriendly legislation, it has been seen, is not admissible, for the subject to which it is to be applied cannot be affected by it; the property in this case is not, like ordinary property, within the control of State legislation, but it is property that has been raised by the Constitution of the United States to a position where it is unassailable. Any local law impairing a right which rests upon a special constitutional sanction must be declared inoperative, of course. Property founded upon such a right cannot be subjected to any laws or regulations more onerous than are made to apply to other property, or perhaps than attach to the most favored descriptions of property; certainly, any invidious legislation, and all regulations discriminating against it, would be unconstitutional. The laws protecting other property would protect this; actions of case, trespass, replevin—in fine, all the appropriate remedies for injuries to property—would lie as well for torts to this property as to any other. To maim a slave would be trespass, to steal him would be larceny. So, an affirmative code for the protection of slave property would in almost every conceivable case be unnecessary, and unfriendly legislation would in all cases be nugatory. What cannot be done directly cannot be done indirectly. I say this, it will be understood, upon the assumption that the Dred Scott decision is right, and is to be carried out in all its implications by the Federal courts, as it undoubtedly will be, so long as the Democratic party continues in power.

Mr. Chairman, if the Dred Scott decision is good law, and it shall be acquiesced in as such, the question of freedom or slavery in this country is irrevocably settled; the Constitution which the builders constructed is already overthrown, and the Union for liberty and republicanism, which rested thereon, exists no longer, and the foundations of a Union for a grinding servitude on the one side, and an arrogant oligarchy on the other, to be erected upon its ruins, have been commenced.

I have dwelt at length upon this branch of my subject, because I perceive that this decision embraces and involves *every question* in respect to the existence, extension, and perpetuation, of slavery. It is the essential platform of the Democratic party; it covers every claim that the oligarchy sets up; it forbids the prohibition of slavery extension; it declares, in effect, that the Constitution, *ex proprio vigore*, carries slavery into every Territory and every State of the Union, and extends to slave prop-

erty a degree of favor and protection such as is accorded to no other kind of property; it vindicates the slave trade, and demands, by an imperious logic, its reopening and legalization; for, if it is true that negroes have "no rights which white men are bound to respect," if their normal and rightful *status*—I hardly know what word to use when I speak of a man as a thing—is that of property, and if this is so plain that the Supreme Court is bound to say that it is true, although the Constitution makes no reference to them as such, with what propriety can the importation of them be made piracy? What good reason can be given for such a restriction as is contained in the laws against the slave trade, upon what is in itself a legitimate subject of commerce? Why make it criminal to import slaves, when property in them already within the United States is more highly favored by the Constitution than property in any other form?

I come now to inquire in regard to the basis or foundation of this extraordinary decision; to ascertain and examine the grounds upon which it rests, and I discover that they are as follows:

I. That whereas, by the opinions of the civilized world before and at the time of the formation of the Constitution, negroes of African descent were an inferior race, fit only to be slaves, and intended by their Creator to occupy that place or status in the world, it could not have been understood that they were to be citizens of the United States. They were regarded as the subjects of property, and not as persons entitled to the rights and franchises of citizenship.

II. The doctrine of Mr. Calhoun and his disciples, that slavery is not only right and fit, so far as the slave is concerned, but a blessing to free men, a necessary relation in society, and the very corner stone of true and legitimate government.

III. The provisions in the Constitution in reference to the slave trade and the return of fugitives from service or labor.

Under some or all of these heads may be found the reasons which brought the judges, who united in the opinion of the court, to make the Dred Scott decision. And I will here observe, that although in giving in their opinions they differed from each other in many respects, and so far that it may be disputed whether a majority were agreed upon any particular line of reasoning, it can hardly be doubted that what is called the "opinion of the court," pronounced by Chief Justice Taney, embodies in its results the opinions of the majority of the court. This is the understanding of the President, of the South, and of the Democratic party, as is seen by their declarations and plat forms.

I. The African race, we are assured by a majority of the court, had for more than a century before the formation of the Constitution, "been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it. This opinion was at that time fixed and universal in the civilized portion of the white race. It was regarded as an axiom in morals as well as in politics, which no one thought of disputing, or supposed to be open to dispute; and men in every grade and position of society daily and habitually acted upon it in their private pursuits, as well as in matters of public concern, without doubting for a moment the correctness of this opinion." * * * They "were never thought of or spoken of except as property, and when the claims of the owner or the profits of the trader were supposed to need protection."

Mr. Chairman, it is undoubtedly true that for many years preceding the adoption of the Constitution, members of the African race had been held in slavery on this continent; but how and why and by whom this practice was commenced and continued, appears in the quotations which I made at the commencement of these remarks. They were held in that condition, and had been reduced to it, wrongfully and with a strong hand—because they were weak, and not because it was right or just—by the force of superior power, as millions of the white race had for many centuries been held in slavery upon the continent of Europe. They were held as slaves at the formation of the Constitution, because they had been brought here and forced upon our people while they were yet the colonies of Great Britain. After their independence, they could not be enfranchised at once; they could not be placed in possession of political power in a day or a year. But, sir, if there is anything true in the history of those times, the men of the Revolution did not approve or justify the system. They felt it to be wrong, cruelly, strangely wrong; they regarded their relations to these unfortunate beings as false and unnatural, and it was their earnest desire and full determination to change them, as in general terms I have already shown, and as I will more fully prove hereafter. That they or their ancestors regarded the Africans as unfit for "*political relations*"—I mean Africans, as such, and not slaves—is disproved by the fact stated by Judge Curtis in his opinion, and supported by the authorities to which he referred, that prior to this time "all free native-born inhabitants of the States of New Hampshire, Massachusetts, New York, New Jersey, and *North Carolina*, though descended from *African slaves*, were not only *citizens* of those States, but such of them as had the other necessary qualifications possessed the franchise of electors on equal terms with other citizens."

That the Africans at the time referred to were "*regarded as so far inferior that they had* NO RIGHTS WHICH WHITE MEN WERE BOUND TO RESPECT, *and that the negro might* JUSTLY *and lawfully be reduced to slavery for his benefit.*" That "*this opinion was at that time fixed and* UNIVERSAL *in the civilized portions of the white race;*" that "*it was regarded as an axiom in morals as well as in politics, which* NO ONE *thought of disputing, or supposed to*

be OPEN *to dispute:*" that "men in every grade and position in society" never doubted "*for a moment the correctness of this opinion*"—are asseverations so strange and monstrous, so plainly, greatly, shockingly untrue, that one hardly knows how to meet them—he is staggered and confounded by their grossness and audacity.

But these inventions were necessary, to lay a foundation for the Dred Scott decision, and indeed form its chief corner stone. How totally unsupported they are by the history of those times, I shall show by testimony the most direct and overwhelming, and of which one would suppose Chief Justice Taney could not have been ignorant. That, at the time of the adoption of the Constitution, the opinion in regard to negroes (which the Chief Justice says "was fixed and universal in the civilized portions of the white race") was not as he has stated it, but, on the other hand, that it was considered that the black man *had* "rights which white men were bound to respect;" and that he might *not* "justly be reduced to slavery for the white man's benefit;" that it was *not* an axiom in *morals* that he might *justly* be made a slave; that his true and proper condition was *not* that of a slave, and therefore of property, but that of a human, sentient, responsible, immortal being, possessing the same natural rights with other men, appears from the proceedings of numerous public bodies, the writings and speeches of eminent men, representatives of various interests and classes, of statesmen, politicians, lawyers, philosophers, poets, divines, in this country and in Europe, whose opinions, with the members of the Convention which framed the Constitution, were of the highest authority, and some of whom, indeed, were themselves members of that body. From this mass of testimony I will make such selections as my time will permit.

In the year 1785, three years before the adoption of the Federal Constitution, a bill for the *abolition of slavery* was passed by the Legislature of New York, to which Chancellor Livingston, *clarum et venerabile nomen*, the magistrate who administered to George Washington his first oath of office as President of the United States, objected, not that it abolished slavery, but *but that it did not go further, and clothe the negro with all the rights and privileges of white men.* To his objections I beg to call your particular attention; they were as follows:

"1. Because the last clause of the bill enacts that no negro, mulatto, or mustee, shall have a legal vote in any case whatsoever; which implicatively excludes persons of this description from all share in the Legislature, and those offices in which a vote may be necessary, as well as from the important privilege of electing those by whom they are to be governed; the bill having, in other instances, placed the children that shall be born of slaves in the rank of citizens, agreeable both to the spirit and letter of the Constitution, they are, as such, entitled to all the privileges of citizens; nor can they be deprived of these essential rights without shocking those principles of equal liberty which every page in that Constitution labors to enforce.

"2. Because it holds up a doctrine which is repugnant to the principles on which the United States justify their separation from Great Britain, and either enacts what is wrong or supposes that those may rightfully be charged with the burdens of Government who have no representative share in imposing them.

"3. Because this class of disfranchised and discontented citizens, who at some future period may be both numerous and wealthy, may, under the direction of ambitious or factious leaders, become dangerous to the State, and effect the ruin of a Constitution whose benefits they are not permitted to enjoy.

"4. Because the creation of an order of citizens who are to have no legislative or representative share in the Government, necessarily *lays the foundation of an aristocracy of the most dangerous and malignant kind, vesting power permanent and hereditary in the hands of those persons who deduce their origin through white* ancestors only; though these, at some future period, should not amount to a fiftieth part of the people. That this is not a chimerical supposition will be apparent to those who reflect that the term *mustee* is indefinite; that the desire of power will induce those who possess it to exclude competitors by extending it as far as possible; that, supposing it to extend to the seventeenth generation, every man will have the blood of many more than two hundred thousand ancestors running in his veins, and that, if any of these should have been colored, his posterity will, by the operation of this law, be disfranchised; so that, if only one-thousandth part of the black inhabitants now in the State should intermarry with the white, their posterity will amount to so many millions that it will be difficult to suppose a fiftieth part of the people born within this State two hundred years hence, who may be entitled to share in the benefits which our excellent Constitution intended to secure to every free inhabitant of the State.

"5. Because the last clause of the bill, being general, deprives those black, mulatto, and mustee citizens, *who have heretofore been entitled to a vote*, of this essential privilege, and under the idea of political expediency, without their having been charged with any offence, disfranchises them, in direct violation of the established rules of justice, against the letter and spirit of the Constitution, and tends to support a doctrine which is inconsistent with the most obvious principles of government, that the Legislature may arbitrarily dispose of the dearest rights of their constituents."

Have I made no mistake? Is it true, is it possible, that in the face of this noble protest, which more than covers all the positions of the Republican party, Judge Taney could have used the language I have quoted? Can it be, that in drawing an elaborate opinion in a great case, the most important in its bearing and issues ever pronounced by an earthly court, and in which historical accuracy was of the first necessity, he could have ignored the record I have cited, and the facts which it proves, and have solemnly declared, that in 1788, when the Constitution was formed, and for more than a century before, the black race were regarded as "altogether unfit to associate with the white race, either in social or political relations," and might "justly and lawfully be reduced to slavery for their benefit," and that this opinion was "*fixed and universal* in the civilized portion of the white race?"

The Legislature of Pennsylvania, in 1780, passed an act abolishing slavery in that State, which was introduced by the following preamble, the authorship of which I have heard—I know not with what authority—ascribed to Dr. Franklin:

"When we contemplate our abhorrence of that condition to which the arms and tyranny of Great Britain were exerted to reduce us; when we look back upon the variety of dangers to which we have been exposed, and how miraculously our wants in many instances have been supplied, and our deliverances wrought, when even hope and human fortitude have become unequal to the conflict, we are unavoidably led to a serious and grateful sense of the manifold blessings which we have undeservedly received from the hand of that Being from whom every good and perfect gift cometh. Impressed

with these ideas, we conceive that it is our duty, and we rejoice that it is in our power, to extend a portion of that freedom to others which hath been extended to us, and release from that state of thraldom, to which we ourselves were tyrannically doomed, and from which we have now every prospect of being delivered. It is not for us to inquire why, in the creation of mankind, the inhabitants of the several parts of the earth were distinguished by a difference in feature or complexion.

"It is sufficient to know that all are the work of an Almighty hand. We find, in the distribution of the human species, that the most fertile as well as the most barren parts of the earth are inhabited by men of a complexion different from ours, and from each other; from whence we may reasonably as well as religiously infer, that He who placed them in their various situations hath extended equally His care and protection to all; and it becometh not us to counteract His mercies. We esteem it a peculiar blessing granted to us, that we are enabled this day to add one more step toward universal civilization by removing, as much as possible, the sorrows of those who have lived in undeserved bondage, and by which, from the assumed authority of the Kings of Great Britain, no effectual legal relief could be obtained. Weaned by a long course of experience from those narrow prejudices and partialities we had imbibed, we find our hearts enlarged with kindness and benevolence towards men of all conditions and nations; and we conceive ourselves, at this particular period, extraordinarily called upon, by the blessings which we have received, to manifest the sincerity of our profession, and to give a substantial proof of our own gratitude.

"And whereas the condition of those persons who have heretofore been denominated negro and mulatto slaves has been attended with circumstances which not only deprived them of the common blessings which by nature they were entitled to, but has cast them into the deepest afflictions, by an unnatural separation and sale of husband and wife from each other, and from their children—an injury the greatness of which can only be conceived by supposing that we were in the same unhappy case; in *justice*, therefore, to persons so unhappily circumstanced, and who have no prospect before them whereon they may rest their sorrows and their hopes—have no reasonable inducement to *render their service to society which they otherwise might*; and also in grateful commemoration of our own happy deliverance from that state of unconditional submission to which we were doomed by the tyranny of Britain: Therefore, *Be it enacted*," &c.

Sir, this splendid preamble, and the act which it introduced, were no trifling or obscure matters. They were the production of great men, acting on a most conspicuous theatre, and their work is one of historical interest and grandeur. It was to this preamble that Mr. Webster referred, at Philadelphia, in 1844, in these words:

"That preamble was the work of your fathers! They sleep in honored graves! There is not, I believe, one man living now who was engaged in that most righteous act. There are words in that preamble fit to be read by all who inherit the blood, by all who bear the name, by all who cherish the memory of an honored and virtuous ancestry. And I ask every one of you now present, ere eight-and-forty hours pass over your heads, to turn to that act, to read that preamble; and if you are Pennsylvanians, the blood will stir and prompt you to do your duty. There are arguments in that preamble far surpassing anything that my poor ability could advance, and there I leave the subject."

Oh, sir, that the Pennsylvanians would now read that preamble! The blood would stir, and they would be prompted to their duty by taking that commanding position in the army of freedom to which they are called by the just renown and the glorious memories of their ancestors, whose utterances in behalf of liberty and human rights were among the most eloquent and fervid that have ever been heard upon this continent.

But, Mr. Chairman, where has Judge Taney been, that, notwithstanding this action of the Pennsylvania Legislature eight years before the Constitution was adopted, he should have the boldness to say that, by the common consent of mankind, at the time this act was passed, negroes "had no rights which white men were bound to respect," and might justly and lawfully be reduced to slavery for his benefit; and that this was an axiom in morals as well as politics which *no one* thought of disputing, and upon which men of every grade and position in society daily and habitually acted?

Sir, is it not manifest and certain that the men of the Revolution, the framers of our institutions, acted in the light and spirit of these testimonies, rather than in that thick darkness of inhumanity and practical atheism in which the Chief Justice has been groping?

In 1773, Dr. Benjamin Rush, of Philadelphia, who to the reputation of an eminent physician added that of a distinguished philanthropist and statesman, issued an address to the inhabitants of America on slave-keeping, in which he said:

"Liberty and property form the basis of abundance and good agriculture. I never observed it to flourish where those rights of mankind were not firmly established. The earth, which multiplies her productions with a kind of profusion under the hands of the free-born laborer, seems to shrink into barrenness under the sweat of the slave. Such is the will of the Great Author of our nature, who has created man free, and assigned to him the earth, that he might cultivate his possession with the sweat of his brow, but still should enjoy his liberty."

Warming with his subject, and passing from the material to the moral and religious aspect of it, he exclaims:

"Ye men of sense and virtue, ye advocates for American liberty, rouse up, and espouse the cause of humanity and general liberty. Bear a testimony against a vice which degrades human nature, and dissolves that universal tie of benevolence which should connect all the children of men together in one great family. *The plant of liberty is of so tender a nature, that it cannot thrive long in the neighborhood of slavery.* Remember, the eyes of all Europe are fixed upon you, to preserve an asylum for freedom in this country, after the last pillars of it are fallen in every other quarter of the globe.

"But chiefly, ye ministers of the gospel, whose dominion over the principles and actions of men is so universally acknowledged and felt, ye who estimate the worth of your fellow creatures by their immortality, and therefore must look upon all mankind as equals, *let your zeal keep pace with your opportunities to put a stop to slavery.* While you enforce the duties of 'tithe and cummin,' neglect not the weightier laws of justice and humanity. Slavery is a hydra sin, and includes in it every violation of the precepts of the law and the gospel. *In vain will you command your flocks to offer up the incense of faith and charity, while they continue to mingle the sweat and blood of negro slaves with their sacrifices.*"

To our conscientious and devoted clergymen, who, for following too closely the precepts and injunctions of their Divine Master, have been showered with torrents of abuse by demagogues and blackguards, these earnest words of a true patriot and a sincere Christian, bear healing in their wings.

Dr. Franklin, in 1790, but two years subsequent to the adoption of the Constitution, in the name and behalf of "The Pennsylvania Society for Promoting the Abolition of Slavery," prepared a memorial to the Congress of the United States, in which he used the following language:

"From a persuasion that equal liberty was originally the portion and is still the birthright of all men, and influenced by the strong ties of humanity and the principles of their in-

stitution, your memorialists conceive themselves bound to use all justifiable endeavors to loosen the bonds of slavery, and promote a general enjoyment of the blessings of freedom. Under these impressions, they earnestly entreat your attention to the subject of slavery; that you will be pleased to countenance the restoration to liberty of those unhappy men, who, alone in this land of freedom, are degraded into perpetual bondage, and who, amid the general joy of surrounding freemen, are groaning in servile subjection; that you will devise means for removing this inconsistency of character from the American people; that you will promote mercy and *justice*."

[Judge Taney says everybody believed that slavery was justi e]

"towards this distressed race; and that you will step to the very verge of the power vested in you for discouraging every species of traffic in the persons of our fellow-men."

It is not a little strange that Dr. Franklin and his associates should have been so ignorant of the Constitution, and what it was made for, and of the sentiment of the times, as not to have known that it was intended to recognise and perpetuate human slavery, and that, in point of fact, it regarded slaves as property, and incapable of being made citizens by any power in the country. Instead of knowing the facts now asserted by Judge Taney as the basis of a judicial decision, they even supposed (so friendly, in their view, was that instrument to liberty) that Congress might in some way "countenance" the abolition of slavery.

That Virginia was in no wise behind Pennsylvania in her desire for the abolition of slavery, in her sense of its injustice, and in her advocacy of the rights of human nature, is of common knowledge, derived from the citations so often made from the writings of Washington, Jefferson, Madison, Patrick Henry, Tucker, Wythe—indeed, of all her great names of the Revolutionary period. I need not quote them. But I will read a brief extract, not so well known, from an address published in the *Virginia Gazette* in 1767:

"Now, as freedom is unquestionably the birthright of all mankind, Africans as well as Europeans, to keep the former in a state of slavery is a constant violation of that right, and therefore of justice."

And yet the opinion was "universal," that Africans had no rights!

But, sir, to remove all foundation for the argument raised by Chief Justice Taney, and to prove affirmatively and beyond doubt that the framers of the Constitution could not have been influenced by such opinions and purposes as he has ascribed to them, I refer to an act of the Virginia Legislature in 1783, (Hening's Statutes, vol. ii, page 332,)—for a knowledge of which I am indebted to the able and very admirable oration of Mr. George Sumner, delivered before the authorities of Boston on the 4th of July, 1859—which repeals the law of 1779, limiting citizenship to whites, and enacts—

"That all *free* persons, born within the territory of this Commonwealth, shall be deemed *citizens* of this Commonwealth."

Had the Chief Justice never heard that in his native State of Maryland there were very decided opinions in regard to the wrongfulness and inexpediency of slavery, at and before the formation of the Constitution? Can he believe that the people of that State understood that they had, so far as their own vote was concerned, adopted a fundamental law for the Union, which stamped the African with an incapacity to become a citizen, that looked upon him as a proper and rightful subject of merchandise? Under what hallucination was he suffering, that he could assert that it was in Maryland, as well as in the other States, an axiom in morals and politics, that the negro might be justly reduced to slavery, when he must have known that, the very next year after the adoption of the Constitution, an abolition society was organized in that State, the result of the discussions, which for years had taken place in her Legislature, and of such opinions as had been expressed by Pinkney, Martin, and others of her influential and distinguished citizens? Mr Pinkney had warned them "that slavery would work a decay of the spirit of liberty in the free States," and that, "by the eternal principles of natural justice, no master in the State has a right to hold his slave in bondage a single hour."

Luther Martin said, in 1787:

"Slavery is inconsistent with the genius of republicanism, and has a tendency to destroy those principles on which it is supported, as it lessens the sense of the equal rights of mankind, and habituates us to tyranny and oppression."

But it would be an endless task to reproduce even a tithe of the evidence that might be relied upon to sustain the assertion that Judge Taney has wholly misunderstood or misrepresented the opinions and sentiments which were influential and controlling with the members of the Constitutional Convention. Massachusetts had already abolished slavery; the testimony of her great men, the Adams's and others, was against the giant iniquity. It had no defenders in all New England. Indeed, I hazard nothing in saying that the opinion was general, and all but universal, from the St. Croix to the St. Mary, against the postulates of the Chief Justice.

Inasmuch as some reliance has been placed by the court upon what is assumed to have been the public opinion of Europe upon this question of slavery, it will not be out of place to give a few extracts from the writings of some of her greatest minds.

Lord Mansfield, in 1777, in an opinion which declared the law of England, said:

"The state of slavery is of such a nature that it is incapable of being introduced on any reasons, moral or political, but only by positive law, which preserves its force long after the reasons, occasion, and time itself, whence it was created, are erased from the memory. It is so odious, that nothing can support it but positive law. Whatever inconveniences therefore may follow from the decision, I cannot say this case (Somerset's) is allowed or approved by the law of England, and therefore the black must be discharged."

John Locke wrote:

"Slavery is so vile, so miserable a state of man, and so directly opposite to the generous temper and courage of our nation, that it is hard to be conceived that an Englishman, much less a gentleman, should plead for it."

Charles James Fox, the early and true friend

of America, the large-hearted and the wise, said:

"With regard to a regulation of slavery, my detestation of its existence induces me to know no such a thing as a regulation of robbery and a restriction of murder. Personal freedom is a right, of which he who deprives his fellow-creature is criminal in so depriving; and he who withholds is no less criminal in withholding."

Edmund Burke declared—

"That slavery is a state so improper, so degrading, and so ruinous to the feelings and capacities of human nature, that it ought not to be suffered to exist."

Montesquieu, among Frenchmen, wrote:

"It is impossible for us to suppose these creatures to be men; because, allowing them to be men, a suspicion would follow that we ourselves are not Christians."

Again:

"In Democracies, where they are all upon an equality, slavery is contrary to the principles of the Constitution."

Lafayette said:

"I would never have drawn my sword in the cause of America, if I could have conceived that thereby I was founding a land of slavery."

But enough, and more than enough, of these authorities. I submit that they overthrow, beyond controversy, the historical statements and propositions of the Chief Justice.

II. While the propositions which I have been considering are undoubtedly those upon which the decision was intended to rest, it is manifest that they harmonize with, and derive aid from, the political philosophy of Mr. Calhoun, Mr. McDuffie, and others of that school, which teaches that Governments founded on the idea of universal liberty are radically false, and necessarily insecure; that a pure Democracy, or a Republic resting upon universal suffrage, must be practical impossibilities, and that the only true and stable Government is that which recognises and provides for the existence of classes among the people over whom it extends. The theory is, that Governments can securely rest only on the intelligence and virtue of those who govern, and that it is idle to expect that the requisite intelligence for the wise exercise of the power of selecting rulers and making laws can be found among the classes who perform the physical labor of a country; that such as, from their position and circumstances in life, are obliged to labor daily in the field or shop, or elsewhere, cannot find time to inform themselves in respect to the facts necessary to be known for the formation of correct opinions upon questions of administration and policy; that they can have no leisure for political inquiries, and for the acquisition of the general knowledge indispensable to a wise and judicious use of the elective franchise. Only those, we are told, who are relieved from this necessity of daily labor, by the labor of subordinate and inferior classes, can properly understand the science of government and the wants of a nation, and be able to know the persons who are wise and virtuous enough to be intrusted with the duties of administration. "Those who think must govern those who work," says this philosophy; and if it says truly, Mr. Calhoun's proposition, "*that slavery is the corner-stone of all true Governments,*" is a sound one; and it results that if slavery be not the corner-stone of this Government, the Government has no good and safe foundation. If these positions are well taken, the proper and normal condition of *some* men is that of slaves and of property. And, inasmuch as the framers of the Constitution were wise men, and understood this, and in all respects knew what they were about, it cannot be doubted that in the fundamental law which they made they recognised the existence of such a class, not only as a fact, but as a necessity; not merely as an accident, but as an essential condition of the new society; and although they speak of guarantying to the States a republican form of government, that was understood to refer to Governments not monarchical, and not to exclude those in which, as in the Roman, Venitian, and other republics which have existed in Europe, at different periods for many centuries, the people were divided into castes and classes. So, when an organic law was framed, there can be no doubt—such is the argument—that its authors regarded the degraded Africans as belonging to a disabled and servile class, being all laborers, and stamped upon them an incapacity to be citizens, and treated them as the rightful subjects of property.

Undoubtedly, if the doctrine of the Calhoun Democracy be sound, a very strong argument may be adduced in favor of the Dred Scott decision. According to this theory, slavery is of Divine authority, and exists by natural law. It is, as we were told by the framers of the Lecompton Constitution, "before and higher than all constitutional sanctions." God made one class or description of men, or certain classes and descriptions of men, for slaves, and the Government which does not perceive and act upon this essential truth is false and impious.

That the followers of Mr. Calhoun—and they are now the ruling spirits in the Democratic party—are fully committed to these doctrines, and are preparing to accept their logical results, is seen in the fact that they are beginning to maintain that wherever a servile and laboring class of black men cannot be found in a community, their place must be supplied with white men.

Mr. George Fitzhugh, of Richmond, Virginia, a political writer of large reputation in the South, published, in 1854, a work entitled "*Sociology for the South; or, the Failure of Free Society,*" in which he said:

"Slavery protects the weaker members of society, just as do the relations of parents, guardian, and husband, and is as necessary, as natural, and almost as universal, as those relations."

"Ten years ago, we became satisfied that slavery, BLACK OR WHITE, was right and necessary. We advocated this doctrine in very many essays."

The Richmond *Inquirer* says:

"While it is far more obvious that negroes should be slaves than whites—for they are only fit to labor, and not to direct—*yet the principle of slavery is itself right, and does not depend on difference of complexion.*"

In another article is the following:

"*Freedom is not possible without slavery.* Every civil polity and every social system implies gradation of rank and condition. *In the States of the South, an aristocracy of white men is based on negro slavery;* AND THE ABSENCE OF NEGRO SLAVERY WOULD BE SUPPLIED BY WHITE MEN."

It was to an assumed degradation of white labor that Mr. Mason, of Virginia, undoubtedly referred the other day, in the Senate of the United States, when he spoke of the free States as *servile* States. Governor Hammond, of South Carolina, a few years ago, referred to free labor in terms of similar import, when he denominated our free white laborers the "mud sills of society."

III. The court, in the opinion read by the Chief Justice, rely in some measure upon two clauses in the Constitution, which, they say, "point directly and specifically to the negro race as a separate class of persons, and show clearly that they were not regarded as a portion of the people or citizens of the Government then formed." The best way to negative this statement is to read the clauses referred to; they are as follows:

"The migration or importation of such *persons* as any of the States *now existing* shall think proper to *admit*, shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."

"No *person* held to service or labor in one State, *under the laws thereof*, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered upon claim of the party to whom such service or labor may be due."

In order to maintain that the "persons" spoken of in these clauses were incapable of being citizens, that they were recognised as property, or as the fit subjects of property, it must be shown that these results are deducible from other parts of the Constitution, (which is not pretended,) or from the universally known and admitted fact that negroes were an inferior race, without rights, whose normal *status* was that of slaves, and whose true description was that of property. Because it will be seen at once, that if these "persons" had rights "which white men were bound to respect," if they were capable of enjoying social or political relations with others, if they could by any possibility be entitled to be regarded and respected as men, or as anything except slaves and property, the interpretation of the court could not be sustained. The words used do not imply that negroes were necessarily slaves—they might be used in respect to those who could be free men and citizens. How are we to ascertain whether the "persons" referred to were incapable of being citizens, and capable only of being chattels? Plainly, by showing that negroes were meant by the word "persons," wherever used in these clauses, and further that by the universal opinion of the times, or by the fitness and necessity of the thing itself, or by both, they were of a race that could not be citizens, and who ought to be, and of right were, chattels. So these clauses do not relieve the court, as they fully understood they did not, from the necessity of going beyond them to ascertain the true effect and meaning of the Constitution. But it will be observed that the Constitution speaks always of "persons," and never of slaves or property. And when it speaks of "persons" as "held to service," it does not recognise their service as being in virtue of any of its own provisions, but as *under the laws of the States*. It excludes, carefully and industriously, the idea or the implication, that slaves are, or can be, property under the Constitution.

In respect to the clause relating to the slave trade, I will observe, in addition to what has already been said, that if the framers of the Constitution believed slavery to be right and just, and that negroes were of a race so inferior and of a nature so low that they could not be the subjects of citizenship, and were the legitimate subjects of commerce, it is difficult to see why they were so anxious to engraft upon it a clause enabling Congress to embarrass and cripple the practice or system—why they should provide for damaging if not for destroying a system which they ALL—"the opinion was fixed and universal," you know—agreed was wise, just, benevolent, and expedient?

But one thing more remains to me in connection with this case—if, indeed, it be not a work of supererogation—and that is, to show that the Democratic party, as it calls itself, accepts and affirms this decision in all its parts, with all its doctrines, implications, and results.

The President of the United States, in his well-known Connecticut letter, dated August 15, 1857, writes:

"Slavery existed at that period, and still exists, in Kansas, under the Constitution of the United States. This point has at last been finally decided by the highest tribunal known to our laws."

He also says, in one of his messages, that—

"Neither Congress, nor a Territorial Legislature, nor any human power, has any authority to annul or impair this vested right."

Charles O'Conor, a distinguished Democratic lawyer of the city of New York, in a speech at a great Union meeting held at the Academy of Music, in that city, on the 19th of December last, said:

"Gentlemen, the Constitution guaranties to the people of the Southern States protection to their slave property. In that respect, it is a solemn compact between the North and the South."

In a subsequent part of his speech, he affirmed the propositions which I have shown are the basis and groundwork of the Dred Scott decision:

"I insist," said Mr. O'Conor, "that negro slavery is not unjust. * * * I maintain that negro slavery is not unjust; that it is benign in its influences upon the white man, and upon the black man; that it is ordained by nature; that it is an institution created by nature itself."

Nothing can be clearer upon this point than what I shall read from a speech delivered by Mr. BRECKINRIDGE, the Vice President of the United States, at Frankfort, Kentucky, in December last:

"Gentlemen, I bow to the decision of the Supreme Court of the United States upon every question within its proper jurisdiction, whether it corresponds with my private opinion or not; only, I bow a trifle lower when it happens to do so, as the decision in the Dred Scott case does. I approve it in all its parts as a sound exposition of the law and constitutional rights of the States, and citizens that inhabit them. It may not be improper for me here to add, that so great an interest did I take in that decision, and in its principles being sustained and understood in the Commonwealth of Kentucky, that I took the trouble, at my own cost, to print or have printed a large edition of that decision, to scatter it over the State, and, unless the mails have miscarried, there is scarcely a member elected to the Legislature who has not received a copy with my frank.

"To approve the decision of the Supreme Court in the Dred Scott case would seem to settle the whole question of Territorial sovereignty, as I think will presently appear. * * *

"I repose upon the decision of the Supreme Court of the United States, as to the point that neither Congress nor the Territorial Legislature has the right to obstruct or confiscate the property of any citizen, slaves included, pending the Territorial condition. * * *

"So that, in regard to slave property, as in regard to any other property recognised and guarded by the Constitution, it is the duty, according to the Supreme Court, of all the courts of the country to protect and guard it by their decision, whenever the question is brought before them. To which I will only add this, that the judicial decisions in our favor must be maintained—these judicial decisions in our favor must be sustained.

"If present remedies are adequate to sustain these decisions, I would have nothing more done. I, with many other public men in the country, believe they are able. If they are not, if they cannot be enforced for want of the proper legislation to enforce them, sufficient legislation must be passed, or our Government is a failure. Gentlemen, I see no escape from that conclusion."

And, Mr. Chairman, there is not a particle of difference in principle between Mr. BRECKINRIDGE and Mr. DOUGLAS; and all there is in appearance, is that, while the latter accepts the principles and dogmas of the court, in the most explicit terms, the former states also their logical results and requirements.

Let us see how this is. In a speech at New Orleans, on the 6th of December, 1858, Mr. DOUGLAS said:

"The Democracy of Illinois, in the first place, accepts the decision of the Supreme Court of the United States in the case of Dred Scott, as an AUTHORITATIVE *interpretation of the Constitution.*"

He is willing to surrender all power to interpret the Constitution, so far as he is able, in favor of the Supreme Court.

"In accordance with that decision," he goes on to say, "we hold that SLAVES ARE PROPERTY, and hence on an equality with all other kinds of property; and the owner of a slave has the same right to move into a Territory, and carry his slave property with him, as the owner of any other property has to go there and carry his property."

I submit that this covers the whole ground occupied by Mr. Breckinridge and President Buchanan. How, if slaves are property under an "authoritative interpretation of the Constitution," that property can be exposed to unfriendly legislation, in a Territory subject to the Constitution, Mr. DOUGLAS has not shown, and cannot. It is simply absurd to say that it can be. And so Mr. DOUGLAS himself understands; for in the same speech he continues:

"And let me say to you, that if you oppose this JUST doctrine, if you attempt to exempt slavery from the rules which apply to other property, you will *abandon your strongest grounds of defence against the assaults of the Black Republicans and abolitionists.*"

Certainly Mr. DOUGLAS saw that the idea of property in slaves, under the Federal Constitution, was the *strongest* ground of defence that the slaveholders can have. And although he speaks of the applicability of the same rules to slave as to other property, he cannot be ignorant that anything which is property by virtue, and with the stamp, of the Constitution, must be unexposed to attacks which may be made on property not thus fortified.

But, not willing to stop here, the Senator from Illinois proceeded to endorse the reasons upon which the decision is placed by the court, by denying the natural and clear import of the Declaration of Independence, and complaining of Southern men—this Northern Senator complained of Southern slaveholders!—for not meeting as they should the Northern argument drawn from that instrument. Said he:

"I must be permitted to tell you, that many *even of your Southern men have* QUAILED *under that argument, and failed to meet it.*"

They have *quailed* before the great utterances of the Declaration, and have been unable to deny them—he, never. He can deny the immortal truths of that instrument without quailing!

That these extracts contain his deliberate opinions and his real position on this question, appears from some remarks which he made in the Senate of the United States on the 23d day of February, 1859:

"I do not put slavery on a different footing from other property. I recognise it as property under what is *understood to be the decision of the Supreme Court.* I agree that the owner of slaves has the same right to remove to the Territories, and carry his slave property with him, as the owner of any other species of property; and to hold the same subject to such local laws as the Territorial Legislature may CONSTITUTIONALLY PASS; and if any person shall feel aggrieved by such local legislation, he may *appeal to the Supreme Court to test the validity of such laws.*"

There you have it—subject to such legislation as the Territorial Legislatures may *constitutionally pass!* And at that very time he knew that this court, in the decision which he says he accepts, had declared that a Territorial Legislature could pass no laws *impairing* the right of property in slaves, and had said that the only power conferred on Congress (or its creature, the Territorial Legislature) was "*the power coupled with the duty of guarding and protecting* the owner [of slave property] in his rights."

But compare the resolutions proposed by the majority and by the minority of the committee at the Charleston Convention. The former were in these words:

"1st. That the Government of a Territory is provisional and temporary, and during its existence all citizens of the United States have an equal right to settle with their property in the Territory, without their rights, either of persons or property, being destroyed or injured by Congressional or Territorial legislation.

"2d. That it is the duty of the Federal Government, in all its departments, to protect the rights of persons and property to the Territories, and wherever else its CONSTITUTIONAL authority extends."

Those offered by the DOUGLAS men, as reported in the newspapers, are as follows:

"That, inasmuch as differences of opinion exist in the Democratic party as to the nature and extent of the powers and duties of Congress, under the Constitution of the United States, over the institution of slavery within the Territories,

"*Resolved*, That the Democratic party will *abide by the decision of the Supreme Court of the United States over the institution of slavery in the Territories.*"

And that decision (and Mr. DOUGLAS speaks of it as a decision in the speech from which I have quoted) goes to the extent that the slave power is entitled to all that is claimed in the majority resolutions.

But, sir, as if to place this matter beyond all possibility of doubt, Mr. DOUGLAS, in his recent speech in the Senate, has renewed the expression of his entire willingness to leave the decision of the question, whether Congress or the people of the Territories can exclude slavery from the Territories, or legislate to its prejudice therein, to the Supreme Court. He read, in confirmation of the soundness of his own position, a letter from the Hon. A. H. Stephens, of Georgia, dated May 5th, 1860, from which I make the following extract:

"And if Congress did not have, or does not have, the power to exclude slavery from a Territory, as those on our side contended, and still contend, they have not, then they could not and did not confer it upon the Territorial Legislatures. We of the South held that Congress had not the power to exclude, and could not delegate a power they did not possess; also, that the people had not the power to exclude under the Constitution; and therefore the mutual agreement was to take the subject out of Congress, and leave the question of the power of the people where the Constitution had placed it—with the courts. This is the whole of it. The question in dispute is a judicial one, and no act of Congress, nor any resolution of any party Convention, can in any way affect it, unless we first abandon the position of non-intervention by Congress."

Now, when Mr. DOUGLAS made this speech, he knew perfectly well what the Supreme Court had said the law was on this question; he knew, as everybody knows, what they will decide whenever it is brought before them, to wit: that the only authority which Congress, or the Territorial Legislatures, have over slavery, is the power coupled with the duty of guarding and protecting it. So the only difference between him and his opponents is, that while the latter ask that the Democratic platform shall express clearly the logical results of the Dred Scott decision, he desires that it shall endorse the decision in general terms, leaving it open to such interpretation in the North as he and his friends may wish to give it. That somebody is to be cheated by the political thimble-rigging now being played by the Democratic leaders, is certain; and it is quite manifest who it will not be. It will not be the Southern propagandists or Mr. DOUGLAS, for the latter, in the speech to which I have just referred, suggests to his Southern friends, that of all the doctrines now advocated, his are the best and surest for their interests.

He tells them that it is to the operation of the principle of squatter sovereignty that slavery has possession of New Mexico, and of every inch of territory outside of the States that it now occupies, and he asks whether it will not be likely to give them more by-and-by, when portions of Mexico shall be acquired.

I repeat, sir, for the point cannot be made too prominent—the Dred Scott decision, with its just deductions, covers the whole ground of difference in principle and in policy between the parties. Whoever accepts it, and acknowledges its authority as a settlement of a political question, is, and of right ought to be, a member of the so called Democratic party; and whoever rejects it as such a settlement is a Republican, and can consistently act with no other party.

Mr. Chairman, the prompt and facile servitor of slavery, the Democratic party, respects no other interest and knows no other love. Its National Conventions, its Federal Administrations, and its Congressional majorities, are occupied exclusively with the wants, claims, and exactions, of a single interest—the interest of capital invested in men, women, and children, as articles of ownership, bargain, and sale. Pray tell me, sir, what is there in all this broad land, or beneath the sun, for which this party labors or cares, for which it thinks, or speaks, or legislates, except the advantage, the perpetuity, and the universality, of this thing of human slavery? Turn to the records of this and the other House, and show me what policies, what acts of legislation, what measures of wisdom and beneficence, it inaugurates or introduces for the benefit of the country at large, and in behalf of all the sections; and especially, what solicitude it ever manifests for the interests of freedom, its agriculture, manufactures, and commerce, its farms and shops and ships! No; it will pay hundreds of millions for Cuba and an aristocracy of planters, but to furnish homes for the homeless, whether of the North, the South, the East, the West, or from other lands, to encourage the aspirations of honest labor, it will not give an acre of our boundless possessions. Reckless of the noble objects of government, false to the true mission of a political party, deaf to the calls of patriotism and nationality, it projects the transformation of our political system from a Republic of freemen to an Oligarchy of slaveholders; it derides the faith of the fathers; it assails the Legislative and Executive departments with the arts and instruments of corruption; it subsidizes the judicial tribunals; and erects within its own confines an iron despotism, which strikes down those of its members who would question the infallibility or check the arrogance of its master.

Mr. Chairman, it is in this unprecedented and alarming condition of the country, and against combinations and purposes such as I have described, that the Republican party enters upon the campaign of 1860. The successor and faithful representative of the Republicanism of other days, it becomes the immediate and positive enemy of the modern Democratic party. It is the only organization in the country which recognises the necessity and acknowledges the duty of resisting to the utmost the new and dangerous schemes and dogmas of the party

which has been so long in possession of the Government. Unlike another political organization, it perceives clearly that the time has come when a decisive and uncompromising stand must be taken against the aggressions of the slave power; and it feels that if there is not a party now prepared to say to this power, "No farther," it will be hopeless to expect that one faithful and brave enough to do this will arise hereafter upon any summons that may be issued. It sees that if the true and loyal patriots of the country are not justified in resisting the claims and exactions now made, nothing can be suggested, nothing attempted, nothing accomplished hereafter, which would render it their duty to make such resistance; and that they may confess and declare that henceforward there is to be no opposition to any doctrine that may be asserted, or to any injustice that may be practiced, however false and fatal they may be.

What is the obvious and unquestionable duty of the Republican party in this exigency? It declares that its purpose is to resist the extension of slavery; to maintain the Constitution and preserve the Union, by adhering faithfully to the opinions and sustaining the policy of the great men who laid so wisely the foundations of our institutions, by "restoring the Government to the principles of Washington and Jefferson," by resisting legally, but with unfaltering purpose, the efforts that are being made to convert this fairest fabric of Freedom that the round earth supports, into a Government whose cardinal policy and highest duty is the protection of slavery.

It declares, that while seeking nothing for which it has not the express and certain warrant of Washington, Adams, Jefferson, Madison, and all the great men of the heroic era, to which they are not directed and enjoined by them, and for which they have not the plain and admirable chart of the Constitution, and to which they are not drawn by the fixed and eternal polar star of the Declaration of Independence, it will submit to nothing wrong, and least of all to that change in our Government prophesied and attempted by the Dred Scott decision.

The plain and imperative duty of the Republican party is to live up in all prudence and wisdom, and in all fidelity, to these declarations—to be careful to overstep in no wise the boundaries of constitutional authority, and in all ways to respect the rights of the various sections and interests—to keep the word of honor and good faith not to the ear only, but to the hope; to show how fair, manly, and trustworthy men may be who are sincere and honest, how safe and wise those who have faith in eternal truths, and who will not, for party or office, surrender the deep convictions of their minds, but will maintain them to the end, against all entreaties, all threats, and all compromises. This, sir, for the Republicans, is the line of duty and the road to success. We believe in what we profess in our hearts and hearts; we live there, or have no life. We are strong when faithful and true, and weak when we act as if we doubted the soundness of our principles or the policy of our aims. We know and we feel that the great essential truths of our party ought to prevail, and that it is our duty to uphold and establish them; and we ought to understand that there is no greater verity than this: that "when God has told men what they ought to do, he has already told them what they can."

Let us act in the spirit of this faith, and right minded, truth-loving men will seek our fellowship, fill our ranks, and carry forward our columns. And thus, succeeding the conflict and the strife incident to all great and lasting achievements, will come the triumph—after the cross of trial the crown of honor. Then, when this party shall have been placed in power, when its influence shall have been felt, its policy understood, and its practical beneficence realized, another "era of good feeling" will ensue, and North and South again dwell together in mutual fellowship and respect. Their sons and daughters will join once more in songs of deliverance; the earth itself shall throb with a new joy, the sun shine with a brighter and kindlier light, and the winds shall quire and the waters murmur the reverential hymns of peace restored.

Mr. Chairman, it may not become me, one of the humblest members of the Republican party, to make suggestions in respect to its duty, and the words that I have spoken may not be those of wisdom, but I know that they are the words of earnestness and sincerity, and I feel that they come from a heart loyal in all its recesses, and which vibrates in all its foldings to the Constitution and the Union, and to that Liberty which they were established to secure.

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